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LETTER

FROM

JOHN BIRD Esq;

To the RIGHT HONOURABLE the

Lord Sydney Beauclerc,

Vice-Chamberlain to the KING,

One of HIS MAJESTY's most Honourable
Privy Council, and Member of Parlia-
ment for the Borough of *Windſor*:

CONCERNING

Mr. BIRD's Election for the
City of *Coventry*;

And his QUALIFICATION to sit and
vote in PARLIAMENT.

LONDON:

Printed in the Year 1741.



TO THE
RIGHT HONOURABLE
THE
Lord *Sydney Beauclerc*,
Vice-Chamberlain to the KING,
And one of His MAJESTY's most Ho-
nourable Privy-Council.

MY LORD,

Although your Lordship has no particular Relation to the City, for which I had the Honour to serve in Parliament, yet, as your Lordship was pleased to honour me with particular Marks of Friendship while I sat there, I trust

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you

you will pardon me in *prefixing* your Name to the following Papers.

It may be thought strange perhaps, that after an Occurrence which happen'd the third Session of this Parliament, I should *call back* the Notice of the World, in a Matter that *principally* concerns my own personal Character. But as your Lordship was one of those who made your self more intimately acquainted with the Circumstances of my Case, than most who were to be my Judges, I must appeal to your Lordship for the Equity and Justice of it, and by your Lordship to the whole World.

And here I cannot omit calling to mind the Opinion that your Lordship was pleased to deliver, after looking over my Brief prepared for *Coun-
cil*;

it; which was, that were you upon your Oath, you should think your self bound in Conscience to Vote for me. Your Lordship must say this from what you saw in my Papers; your Lordship must say it from the Knowledge you had of Facts, and from the Conversation you had with Sir *Thomas Lombe*, of whom I purchased part of my Qualification, which enabled you to judge of the Fairness and Legality of the Proceeding.

Your Lordship will pardon me in availing my self of this Circumstance; my Lord, Facts, you know, are stubborn things; we learn from the highest Authority, that what was made crooked, cannot be made straight. And by parity of Reason, give me leave to say, that what was made straight, cannot be made crooked; maugre all the Ill-will,

the false Representations and Malice
of Mankind.

Magna est veritas, et prævalebit.

Those that shall think it worth their
while to look into the Merits of this
Cause, will see it is a just and a righ-
teous one.

The Law was with me ; it was
with me in the Opinion of one of
the present Judges, then an Eminent
Serjeant at Law, who saw my Brief,
and knew all the Parties, and all
the Circumstances.

The Purchases I made of Sir *Tho-*
mas Lombe and of Mr. *Selwyn*, were
good and valid Purchases, and for
a valuable Consideration.

Every

Every body, my Lord, will acquit me ; my old Antagonist, I trust, will acquit me, that I would not, knowingly have erred, in so essential a Point, as that of my Qualification, and thereby give him an Advantage over me.

What more could an honest Man do ? What more could be expected from me, after I found my self disappointed of a Purchase, previous to my Election, for which I bid Six Thousand Pounds, than to resort to those, who had the Quantity of Land I wanted, to make Use of a Lawyer † of as good Note, as any of his Profession, and who has been since chosen into a Place of great Trust and Profit in the City of

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Lon-

† Mr. Tho. Hardwick, Attorney at Law, in Draper's-Hall.

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London, and to charge him with the Care of procuring me a good Title to the Lands I bought, and to pay him for so doing ? If any thing more had been needful to have been done, no body can dispute but that I would have done it, to have made my self secure of such a Qualification as the Law required. And here I can, with Safety, call upon that God, who knows the Secrets of all Hearts, to witness, that I did what I thought right and just, and can with a good Conscience lay my Hand upon my Heart, and say,

Liberavi animam meam.

I know, whatsoever is not of Faith, is Sin ; but I believe also, that whatsoever is of Faith in this Case, is not Sin. It's an old Maxim,

Quod dubitas ne feceris.

I would be tried upon this Principle ; and were it to have been the last

last Act of my Life, I should not have thought, I could not have imagined I was doing any thing against the Rules of Conscience, Honour, or Law.

My Lord, You see here an honest Man endeavouring to be justified ; and tho' my Caufe, not by any Contrivance of mine, was not brought to that Tribunal where your Lordship sits as one of the Judges, yet it will be to another, where I have no manner of Reason to doubt of being justified ; and where I hope those who have dealt so largely in Obligquy, upon a due Sense of the injustice done me, will be acquitted too.

But it may be asked, my Lord,
Why the Cause was not tried sooner ?
Why I did not take the first Opportunity of Exonerating my self ?

The

The first Session, every body knows, it went off, (as many other Causes did) for want of Time to hear it. The second Session I had no other Intentions than to try it, and had retain'd Council, and prepared my self accordingly; had wrote to my Colleague Sir *Adolphus Oughton* to attend, who was then in *Ireland*, and who could speak to some Facts necessary for my Defence, and whose Aid and Presence every body would have desir'd, who had but just entred upon a publick Station as I had done. But my Colleague disappointing me, and his Affairs that Session not making it practicable to come over, I own, made me not forward to try it that Year. And tho' this, my Lord, was not a Reason proper to be given to

a publick Assembly, yet, I hope, is a justifiable Plea, and what would have work'd upon the Mind of any Man, who could not claim many personal Friendships in that House. This, my Lord, was the Cause, and what will appear to be a Fact from my Letters, now probably in the Hands of my Colleague's Executors.

The Third Session, your Lordship and every body knows, was opened with the unfortunate Circumstance of my Colleague's Death ; and here, if I had had any Suspicion of the Weakness or Wickedness of my own Cause, I had an Opportunity of covering it from the World, by a Compromise with my Antagonist ; which I was so far from desiring or seeking, that when it was offered to me by

no less than two or three of my Antagonist's Friends, I rejected it with Contempt.

I refused a Compromise * also, when it was offered to me by Persons of great Weight and high Station, as thinking it the best Evidence I could give the World of a just and righteous Cause.

My Lord, The Hand I had in the noble Lord's Election who succeeded me, is very well known ; and altho' no Man's Right to a Seat in Parliament for that City was better founded, yet such was the Conduct of his Enemies, and such the mistaken Advice of some of his Friends, that it became morally impossible for him to be in Parliament for the City he now

* This relates only to a Proposal that was made to me, to give my Interest to my Antagonist.

now represents, without infinite new Expence and Trouble, or without my vacating my Seat, by accepting an Employment, which I neither ask'd for, or expected ; but retain the highest Sense of his Majesty's Goodness, for the Honour he has been pleased to do me.

My Lord, I have just done, and will now soon put an end to your Trouble, and with it, I trust, to your Doubts, if you ever had any, concerning my Case, and to the Doubts of all those who have not otherwise had an Opportunity of knowing the Facts which relate to it.

But before you have got quite rid of me, I must repeat my Acknowledgments for the Regard you was always pleased to express for me,
when

when I had the Honour of being with you in Parliament, which must entail upon your Lordship some degree of Trouble if this falls into your Hands.

I own I did flatter my self I shou'd have been able to have done some good to my Country, and brought some Share of Credit and Pleasure to my self in a publick Station ; but I have lived to see it verified, that the Battle was not to the Strong *, and that Numbers have lost their usual Efficacy : Therefore I cannot conclude without begging Leave to adopt this Motto for my future Conduct ;

Quic-

* This alludes to the great Appearance of Voters in favour of Lord Euston ; notwithstanding which, he was not permitted by the Returning Officers to Poll more than about fifty of his Voters in two Days, and was obliged to apply to Parliament for Redress.

*Quicquid amas cupias non placuisse
nimis :*

And at all adventures to assure your
Lordship, I shall ever be,

Your most Obliged, and

Obedient Humble Servant,

*Coventry,
Dec. 20. 1740.*

J. BIRD.

C

T

T H E
C A S E
O F
Mr. B I R D;

S H E W I N G,

That he was duly qualified to be chosen, and fit and vote in Parliament as a Representative for the City of *Coventry*.





THE
C A S E
O F

Mr. BIRD; shewing that he
was duly Qualified, &c.

THE Parliament being dissolved in the Year 1734, Mr. *Bird*, who had a considerable Interest in the City of *Coventry*, stood Candidate at the ensuing Election, together with Sir *Adolphus Oughton* and Mr. *Neal*, to represent that City in Parliament.

But Mr. *Bird* being only in possession of a Freehold Estate of something more than 93*l.* a Year, endeavoured, some time before the Election, to qualify himself by a proper Purchase, and was, for that end, in treaty with a Gentleman for the Purchase of an Estate call'd the *Grange*, near *Atherston*; but being soon convinced, that no Agreement cou'd be had, but upon disadvantageous Terms, he was, upon advising with his Friends, particularly Sir *Thomas Lombe* and Mr. *Selwyn*, prevailed upon to break off the Treaty which had been negotiated on Mr. *Bird's* behalf, by Mr. *White*, Attorney, in *Coventry*, Mr. *Congreve* of *Hill*, and Mr. *Whitehead*, then Tenant to Lord *Brook*. Some short time after, and before the time of the Election, Mr. *Bird* purchased two Freehold Estates; the one from Sir *Thomas Lombe*, the other from Mr. *Selwin*; which Estates were purchased, *bonâ fide*, for valuable Consideration, and conveyed to Mr. *Bird* by Lease and Release, on or about the 23d of *April* 1734. And that these Estates were conveyed to Mr. *Bird*, previous to the Election at *Coventry*, and were of the Values after-mentioned, appears by Mr. *Hardwick's* Affidavit; of which a Copy is annexed.

The two Estates, with the 93*l.* before-mentioned, made up an annual Income of 311*l.* 5*s.* 4*d.* consisting of the following Particulars: One

(21)

One Part of an Estate in *Warwickshire*,
being a House and
Gardens in the City
of *Coventry*, in the
possession of Mr. *Bird*
for several Years be-
fore the said Election,
were of the yearly
Value of

l. s. d.

15 0 0

Another Part of
the said Estate, lying
in the Parish of *Ken-
nelworth*, in the said
County, were con-
veyed to him by Lease
and Release, in *Sept.*
1732, and are of the
yearly value of

40 0 0

The remaining Part
being Lands, lying in
the Parish of *Kings-
bury*, in the said
County, were in *Sep-
tember 1729*, convey-
ed to him by Lease
and Release, and are
of the yearly value
of *

38 0 0

93 0 0

* This is according to the Particulars given in to the
House of Commons; and every thing is valued at the
lowest Computation, and some little Freeholds omitted, to
the extent at least of 10 l. per Annum.

Brought over 93 0 0

The Lands Mr. 159 5 4
Bird bought of Sir 159 5 4
Thomas Lombe, lie in 159 5 4
 the Parishes of *Erith*, 159 5 4
Dartford, and *Plumstead* in the County of 159 5 4
Kent, and are of the 159 5 4
 yearly value of 159 l. 159 5 4
 5 s. 4 d. the Purchase-159 5 4
 Money was 3800 l. 159 5 4

The Lands bought 59 0 0
 of Mr. *Selwin* lie in 59 0 0
Broadwell, in the 59 0 0
 County of *Gloucester*, 59 0 0
 and are of the yearly 59 0 0
 value of 59 l. The 59 0 0
 Purchase-Money was 59 0 0
 1500 l. 59 0 0

218 5 4

 311 5 4

As to the first Parcel of Lands above mentioned, of the yearly value of 93 l. Mr. *Bird* having been in possession of them some Years before the Election, no Doubt can arise as to them.

As to the Lands conveyed by Sir *Thomas Lombe* and Mr. *Selwin*, three Questions might possibly arise.

I. Whether

1. Whether they were purchased *bonâ fide*.
2. Whether Mr. *Bird* was seized of these Estates, time enough before the Election, to qualify him to be elected and fit.
3. Whether they were of the Value above set forth.

As to the first Question, Whether the Lands were purchased *bonâ fide*? It is to be observed, that all Purchases are to be presumed to be made *bonâ fide*, unless the contrary is shewn; but in the present Case the Execution of the Deeds appears by the Affidavit aforesaid of the above-named Mr. *Hardwick*, an Attorney at Law, in *Threadneedle-street*, a Man of Substance and undoubted Integrity. This Circumstance, and the Character of the Persons conveying, must put the Fairness of the Transaction beyond dispute: Besides, as the Grants of all private Persons are to be construed favourably for the Grantee, so the Grantors in this case, could retain no manner of Claim to these Estates, whether Mr. *Bird* actually paid the Purchase-Money, or secured the same by his Note, Bond, or by Assignment of publick Stock: And it is certain, that if the Purchase-Money had been only secured by Mr. *Bird*'s Note or Bond, and he had become insolvent, and a Commission of

Bankruptcy had issued against him, the Grantors must have come in for their Remedy, under such Commission, as common Creditors, and could have no particular Lien or Claim on the Estate conveyed by them; and it consequently appears, that these Estates were absolutely vested in Mr. *Bird*.

As to the next Question, Whether Mr. *Bird* was seised of these Estates, time enough before the Election, to qualify him to be elected and fit? The Words of the Act, of the 9th of Queen *Anne*, are, "That if any Person elected or returned, to serve in Parliament as a Citizen, &c. shall not at the Time of such Election and Return, be seised of, or intitled, in Law or Equity, to an Estate of Freehold, or Copyhold, of 300*l.* a Year above Reprizes, such Election and Return shall be void." Now as these Estates were conveyed to Mr. *Bird*, the 23d of *April* 1734, and the Election did not happen till the 14th of *May* following, it plainly appears by the Words of the Statute, that he was intitled to such an Estate as is thereby required at the Time of his Election and Return, and that he was duly qualified to fit in Parliament.

As to the third Question, about the Value of the Estates, had it come in proof, it would have fully appeared, that they were at least of the yearly Value by Law required; and

and indeed it cannot be presumed, that Mr. *Bird* should be so weak as to neglect that Particular: for if they did not come up to the full Sum of 300*l.* a Year, he might as well have purchased none at all.

Mr. *Neal* petition'd against Sir *Adolphus Oughton* and Mr. *Bird*, and not only objected against their Qualifications, but complain'd of violent Outrages and Corruption: but the Petition did not come to a Hearing that Session.

Next Session Mr. *Neal* renewed his Petition, but soon after waived the Complaints therein stated, except as to what related to Mr. *Bird's* Qualification.

The Estates purchased of Sir *Tho. Lombe* and Mr. *Selwyn* being inconveniently situated, and at a great Distance from each other, Mr. *Bird* in October 1734, re-sold and reconveyed the said Estates to Sir *Thomas Lombe* and Mr. *Selwyn* respectively; and for the Sum of 3100*l.* purchased a Freehold Estate in *Threadneedle-street* in the City of *London*, of *Samuel Craghead* Merchant, of the Yearly Value of 229*l.* But by the Delays of Council in settling the Title, the Conveyance was not executed till *July* following. Of this Estate Mr. *Bird* is still in Possession.

Now

Now the only Objection that can be made to Mr. *Bird*, with respect to this Transaction is, that he sat and voted for some few Months in Parliament, not having such an Estate as the Law requires.

In answer to which, it is to be observed; that the Words of the said Act of the 9th of Queen *Anne* are, " That if any Person e-
" lected, or returned to serve in Parliament,
" shall not at the Time of such Election and
" Return, be seised of, or entitled to such
" an Estate as by this Act is required, such
" Election and Return shall be void.

" And that no Person shall be capable to
" sit and vote as a Member of the House of
" Commons, who shall not have such an
" Estate as by this Act is required. "

From hence it appears, that the Statute makes a Difference between him who has not a sufficient Estate at the Time of the Election and Return, and him who happens not to have such an Estate afterwards. In the first Case the Election and Return are declared void; but in the second it is only said, such Person shall not be capable to sit and vote; which can only import a Temporary Disability, that is, until such Time as he becomes possessed of a sufficient Estate; for it

it must either mean this, or mean that *such Person's Seat is absolutely vacated.* But can any Man imagine, that if that had been the Intention of the Legislature, such Intention would not have been expressed in the plainest or strongest Manner? Or can it be with any Shadow of Reason pretended, that if a Member were to sell one Estate, and purchase another, and by some Accident the Conveyance of the new Estate were delayed for a Week or a Month, that this Delay would vacate his Seat, and that a new Election would be necessary to qualify him to Sit and Vote? Surely there is no Colour of Law or Reason for any such Construction; the Consequences of which might affect the Seats of many Members of the House, and otherwise subject them to great Inconveniences. These Considerations are sufficient to shew, that the Statute *in the Case before us*, can intend no more than a Temporary Disability, and even this only upon Notice taken of it by the House, while such Disability subsists.

As therefore there can be no ground of Law to say, that Mr. *Bird* vacated his Seat by the said Transaction; neither is there any ground for the harsh Reflections that have been thrown out on this Occasion. Of what Crime, Fraud, or Fault, was Mr. *Bird* guilty? He submits it to the Judgment of any impartial Man, whether, if he had been

been doubtful of his Seat in Parliament, being affected by the abovementioned Transaction, it would not have been easy for him to have delayed the Reconveyance to his Friends Sir *Thomas Lombe*, and Mr. *Selwyn*, of their respective Estates till a Day or two after he had been in Possession of his new Estate? His neglecting this Caution, is rather a Proof of the Fairness of his Intentions, than of the contrary.

That Mr. *Bird* had no Apprehension that the House would put any unfavourable Construction on his Conduct, may farther appear by his opposing Mr. *Neal*, upon the Vacancy that happened on the Death of Sir *Adolphus Oughton*; hereby Mr. *Neal* became his Enemy: whereas had Mr. *Bird* been conscious of any Guilt, he would, as he was sollicited by Mr. *Neal's* Friends, have joined Interest with that Gentleman, and thereby have sat undisturbed.

There is not the least Force in the Suspicion, arising from Mr. *Bird's* accepting of the Employment he now enjoys; he did not do this thro' any Apprehension as to his Qualification, but for the Peace and Quiet of the City of *Coventry*; which, and the repeated Solicitations in this respect, not only of Lord *Euston's* Friends, but likewise of Mr. *Neal's*, were the only Motives which induced Mr.

Bird

Bird and his Family to give Lord *Euston* and Mr. *Neal* their Interest, without which the latter could not probably have been chosen.

It is submitted upon the whole, that there does not appear the least Foundation for Censure of any Part of Mr. *Bird's* Conduct, either before or since his Election for the City of *Coventry*; and it is hoped, that all Objections to his Qualification will appear to have been here fully stated, and shewn to be of no Weight.

THOMAS

THOMAS HARDWICK, of the Parish of Saint Peter le Poor, *London*, Gentleman, maketh Oath, That Sir *Thomas Lombe*, late Knight and Alderman of the City of *London* deceased, did some time before the Election which was made of Members to serve in Parliament for the City of *Coventry*, next before the first Sessions of this present Parliament, convey unto *John Bird* Esq; of the City of *Coventry* aforesaid, and his Heirs and Affigns, several Freehold Lands and Hereditaments, in or near *Erith*, in the County of *Kent*. And which, as this Deponent hath been informed, and verily believes, then were of the Yearly Value of One Hundred and fifty-nine Pounds, five Shillings and four Pence, or thereabouts. And this Deponent further saith, That on the same Day *William Selwin* of *Pater-noster Row*, *London*, Merchant, did convey to the said *John Bird* and his Heirs, certain Freehold Lands in or near *Broadwell* in the County of *Gloucester*, which this Deponent hath been informed, and verily believes, then were of the Value of Fifty-nine Pounds or thereabouts. And this Deponent can the better depose as before, for that he was present at, and one of the subscribing Witnesses to the Execution of

of the said respective Conveyances of the said Estates. And further this Deponent saith, That some time afterwards the said Estate in the County of *Kent* was reconveyed by the said *John Bird*, to the said Sir *Thomas Lombe* and his Heirs. And the said Estate in the County of *Gloucester* was reconveyed by the said *John Bird*, to the said *William Selwin* and his Heirs. And that for the more effectual Reconveying the same, this Deponent was employed to get a Fine passed of the said Estate in the County of *Kent*, from the said *John Bird* and *Rebecca* his Wife, to the said Sir *Thomas Lombe*; and also a Fine of the said Estate in *Gloucestershire*, from the said *John Bird* and his said Wife, to the said *William Selwin*. Which Fines were levied in or near the Vacation after *Trinity Term*, which was in the Year One Thousand seven hundred and thirty-eight.

Sworn before me
Jan. 24. 1739.

JOSEPH EYLES.

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